

Overview

This is the fifth Office of Internal Audit (OIA) Annual Report to the Commissioner. Its purpose is to provide overviews of our responsibilities and of the 1999 accomplishments of our various elements. Significant differences from last year's report are noted.

OIA Functions

Our functions are set forth as follows in 8 C.F.R. § 100.2(a)(4):

Headed by the Director of Internal Audit, the office promotes economy, efficiency, and effectiveness within the Service by managing the Service's systems for resolving alleged mismanagement and misconduct by Service employees; reviewing and evaluating the efficiency and effectiveness of Service operations and programs; collecting and analyzing data to identify patterns of deficiencies or other weaknesses warranting investigative or audit follow-up; making recommendations on disciplinary policies and procedures of the Service; overseeing Service systems to eliminate fraud, waste, and abuse in the workplace; and acting as the Service's liaison with outside audit/inspection agencies. These duties are executed in coordination with other components of the Service and other Department of Justice components.

OIA Organ- ization and Resources

Our personnel resources grew from 69 in 1998 to 79 in 1999. They were distributed among our major functions as follows:

Function	Staff
Director, Deputy Director, and Admin. Support	3
Internal Review Branch:	
Assistant Director and Staff	4
INSpect	31
Liaison, Analysis, and Follow-up	8
Special Studies	7
Internal Investigations Branch:	
Assistant Director and Administrative Support	2
Investigations	19
Case Management and Analysis	5
Total	79

INSpect

We review Service programs and operations through INSpect, the INS Program for Excellence and Comprehensive Tracking. An INSpect review comprehensively examines a field office, focusing on areas that are vulnerable to fraud, waste, abuse, and mismanagement; require compliance with rules, regulations and procedures; or are of high priority or interest. During a two-week INSpect review, the diverse functions of an office are assessed using standard review guides developed through active participation of field and headquarters managers. The reviewers are drawn from a corps of INSpect-trained subject matter experts from across the INS. We manage all aspects of the process, from planning and scheduling, through on-site supervision and coordination, to preparation

and issuance of draft and final reports of findings and recommendations. Before leaving a review site, the INSpect team provides managers with written findings and preliminary recommendations so they can start corrective actions immediately.

*1999
INSpect
Reviews* We reviewed 19 INS offices in 1999: 11 District Offices, 7 Border Patrol Sectors, and 1 Service Center. The 19 offices account for 27 percent of the Service's field personnel. This year marked the beginning of the second cycle of INSpect reviews; one District and one Border Patrol Sector were reviewed previously.

In the reviews, we led over 500 INSpect Corps members: 340 from INS field offices and 160 from INS Headquarters. The INS field personnel were evenly distributed among the three regions.

In 1999 we issued 14 final INSpect reports, and 21 draft reports. The final reports presented a total of 984 recommendations for corrective actions and improvements. Additionally, we identified 22 best practices, local successes with Service wide applicability.

*INSpect
Training* The INSpect Corps comprises over 900 members. In 1999, we formally trained 214 INSpect Corps members in INSpect policies and procedures.

*INSpect
Guides* The INSpect guides, which are developed with the assistance of INS program subject matter experts, ensure consistency and relevance. The guides cite applicable requirements and guidance and detail the amounts and types of evidence necessary to support findings. The guides are "living documents." We review the guides in coordination with program offices and in light of team member feedback, and update them as necessary.

With the assistance of Headquarters and field personnel, we revised eight INSpect program guides (Congressional Relations; Equal Employment Opportunity; Finance; Intelligence, Investigations; Legal Proceedings; Procurement; and Security), and developed four new INSpect program guides (Asset Forfeiture; Affirmative Asylum; Asylum-Credible Fear; and Computer and Telecommunications Security).

*INSpect
Follow-up* Accomplishment reporting is an important part of an effective follow-up system. It brings together INSpect findings and corrective actions, and promotes staff commitment by associating individuals' work with organizational accomplishments.

The follow-up process begins with the issuance of a final INSpect report. Based on management responses, the follow-up team determines the best method of measuring the effectiveness of corrective actions. A follow-up team visits the site to determine whether the expected benefits were achieved. Follow-up activities include document, file, and system reviews, staff interviews, and observation of normal office activities. The follow-up team does not look for new issues. In 1999, the follow-up team conducted 9 reviews that addressed 1,164 recommendations.

A recommendation is closed upon issuance of a final INSpect Follow-up Report when one of the following conditions is met:

- the recommendation was effectively implemented;
- an alternative action achieved the intended results;
- circumstances have so changed that the recommendation is no longer valid; or
- the recommendation was not implemented despite the use of all feasible strategies. In that case, the follow-up team determines whether the objectives are significant enough to be pursued later.

In many cases, offices implement simple processes that significantly improve daily operations or facilitate INSpect recommendations.

We issued 11 final follow-up reports closing 662 of the 719 recommendations we addressed. We continue to follow up on open recommendations until corrective actions have been taken.

<i>INSpect and Other OIA Recommendations</i>	<i>1999</i>	<i>1998</i>
Open at the beginning of the year	1,278	485
Added during the year	984	1,121
Closed during the year	662	328
Pending at the end of the year	1,610	1,278

Special Studies and Projects

We also conduct other reviews of Service programs and operations. Unlike INSpect reviews, which address at one time the various functions within individual INS offices, these focus on specific problems or program areas. In addition, we have taken the lead on several Service-wide projects.

Quality Assurance Training Conference

In Fiscal Year 1998, INS allocated a total 52 Quality Assurance (QA) Analyst positions to support the Naturalization Program and serve as the basis for similar QA support for other Service-wide programs and operations in the future. To ensure the analysts fully understood the scope of their mission and related goals and responsibilities, we developed training on the technical and operational components of the Service's QA Program. The training was provided to analysts in March 1999 at the Federal Law Enforcement Training Center in Glynco, Georgia. The training was significant since the analysts immediately assumed responsibilities within the QA process. Naturalization QA efforts are continuously scrutinized by INS management, and the positive impact of the training effort became apparent from the steady stream of QA data from each analyst. Quality within the Naturalization process has significantly improved over the past year. These analysts' continuing efforts ensure this improvement will continue.

Service-wide QA Handbook	<p>We established standard quality assurance procedures and developed basic QA tools and techniques for use throughout the Service. Procedures were formalized in what now is known as the <i>Quality Assurance Handbook, Number M-451, June 1999</i>. This guidance was incorporated into the INS Administrative Manual in August 1999. The OIA has become the authority on QA activities and has assumed Service-wide responsibility for all related oversight. The Handbook emphasizes INS' commitment to continuous quality service and institutionalization of a QA process supporting that commitment.</p>
Naturalization (NQP4) Compliance Review	<p>In an effort to strengthen the integrity of the naturalization process, INS issued revised guidelines on June 5, 1998, which became effective November 1, 1998. Several changes required us to conduct field visits to assess Service-wide compliance with these guidelines and evaluate critical controls within the process. Our Special Studies Unit led review teams at 20 sites in 16 INS Districts March through May 1999. These review teams were supplemented with INS' newly-appointed QA Analysts in order to provide them hands-on experience in file review, sample selection, and reporting, as well as familiarization with naturalization processing. The review showed INS management how well NQP4 was being institutionalized in field offices. The effort also provided an assessment of results expected from a KPMG Peat Marwick review of naturalization procedures that was scheduled to begin shortly thereafter. The results, which were shared with INS Headquarters and field management, resulted in immediate corrective actions. Overall results were well received and generally indicated a high level of compliance in the offices reviewed.</p> <p>From April to May 1999, KPMG Peat Marwick completed its third and final review of INS' compliance with its naturalization procedures. We coordinated the review with the field. In its June 1999 report, KPMG concluded, "It is evident that through the implementation of the NQP guidance, the INS continues to make improvements in the internal controls of the naturalization process and has reduced the risk of incorrectly naturalizing an applicant. Furthermore, there was consistent evidence across the INS of control and documentation of criminal history information."</p>
QA Baseline Data for the Naturalization Program	<p>Following initial development of quality assurance standards for the naturalization program, our Special Studies Unit tracked data received from field offices over a 15-month period ending October 1998. This QA data provided senior management monthly status reports reflecting INS' compliance with NQP3. Information from this 15-month period was accumulated in a database that will serve as the baseline for all future analysis involving assessments of QA within the naturalization program. The information allows performance to be measured at Region and District levels. Based on the data, the Special Studies Unit prepared a detailed summary report in September 1999 identifying trends, strengths, and weaknesses in the naturalization process.</p>

*NQP4 QA
Revisions*

The issuance of the QA Handbook required revisions to the QA sections of INS' NQP4 guidance. Our Special Studies Unit devoted significant effort to bringing the naturalization program's QA guidance in line with the handbook's QA requirements. After input was obtained from numerous INS sources, we developed and distributed to all QA Analysts complete and comprehensive instructions in December 1999.

*Coordination
Of Contractor
Reviews*

During Calendar Year 1999, our Special Studies Unit coordinated several independent reviews by private contractors of INS' Naturalization and Non-Immigrant Visa (H-1B) Programs. The H-1B initiative resulted in our assuming COTR responsibilities for the review contract. The office's independence and expertise make it uniquely suited to coordinating high profile-type reviews.

*Transition
Review*

As a result of concerns raised by Chairman Spencer Abraham of the Senate Subcommittee on Immigration, the DOJ Justice Management Division asked the OIA to oversee and validate the INS review of certain naturalization cases processed between October 1, 1996, and June 30, 1997.¹ The INS review was completed in December 1998 and our reports were issued in March 1999.

Liaison

We provide liaison between the INS and non-INS review organizations, ensuring that Service management is aware of ongoing reviews, and that the appropriate INS personnel and officials participate. To keep INS managers better informed of review activities, we publish a schedule of travel related to ongoing and pending reviews. We distribute the schedule each week to the INS executive staff and regional directors, and post it on our e-mail bulletin board and the INS Intranet.

The Internal Review Branch liaison staff manages a workload of General Accounting Office (GAO) reviews and Office of the Inspector General (OIG), Department of Justice (DOJ), audits and inspections.

<i>Organization</i>	<i>Reviews Open as of 1/1/99²</i>	<i>New Reviews in 1999</i>	<i>Reports Received in 1999</i>
GAO Reviews	12	18	17
OIG Inspections	12	5	4
OIG Audits	12	7	9
Total	36	30	30
1998 Total	38	23	33

*Major
GAO
Reviews*

Major GAO reports focused on the strategy to deter illegal entry into the United States, Southwest Border strategy enforcement activities, employee corruption on the Southwest Border, and INS initiatives to increase the number of Border Patrol Agents as directed by the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

- Southwest Border Strategy Enforcement Activities. The GAO concluded that data on the interim effects of the strategy along the

Southwest border were limited, but recognized that the INS needs to continue to implement the strategy.

- Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist. This, the second of six planned reports on the strategy to deter illegal entry into the United States, focused on employment issues related to unauthorized aliens. The GAO concluded that the INS faces significant obstacles to reducing unauthorized alien employment because the process can be circumvented or easily thwarted by fraud. The GAO made two recommendations relating to outreach programs for employers and clarifying the criteria for investigating suspected criminal activities.
- Border Patrol Hiring: Despite Recent Initiatives, Fiscal Year 1999 Hiring Goal Was Not Met. The GAO pointed out that the INS did not meet the goal of increasing Border Patrol Agents on board by at least 1,000 in each Fiscal Year from 1997 through 2001. The report noted that, although the recruitment program yielded increases in Fiscal Years 1997 and 1998, the increase of only 369 agents in Fiscal Year 1999 caused a net shortfall for the first three Fiscal Years. The GAO suggested that INS survey why applicants are withdrawing late in the hiring process.
- Drug Control: INS and Customs Can Do More to Prevent Drug-Related Employee Corruption. The GAO reported on INS and Customs efforts to address employee corruption on the Southwest Border, concluding that given the enormous sums of money being generated by drug trafficking, the corruption of some INS and Customs employees along the border is a serious threat. The GAO made four recommendations to the INS, three of which are being implemented.

*Major OIG
Reviews*

Of the fourteen OIG reports received in 1999, three are especially noteworthy.

- Voluntary Departure: Ineffective Enforcement and Lack of Sufficient Controls Hamper the Process. The OIG found the INS does not adequately check criminal histories of aliens granted voluntary departure and, therefore, grants voluntary departure to aggravated felons, allowing them to avoid the penalties of formal removal.
- Follow-up Review Immigration and Naturalization Service Management of Automated Programs. The OIG determined that INS still does not adequately manage its automation programs despite the fact that it spent over \$800 million on those programs in Fiscal Years 1995 through 1997. As a result, some completion dates have been delayed without explanation, costs continue to spiral upward without justification, and some projects are nearing completion without assurance that they will meet performance and functional requirements.
- Fingerprint and Biographical Check Services Provided by the Federal Bureau of Investigation to the Immigration and Naturalization Service.

The OIG found that the INS did not reconcile payments against its requests for fingerprint and name checks conducted by the FBI. This occurred because the INS did not track and account for all of the fingerprint and biographical check requests submitted to, and results received from, the FBI. As a result, during Fiscal Years 1996 and 1997, the INS paid approximately \$7 million for unclassifiable and duplicate fingerprint cards, processed incomplete or inaccurate fingerprint checks for thousands of INS applicants, and did not detect FBI under-billing of approximately \$800,000. The OIG also found that the INS spent approximately \$220,000 unnecessarily for duplicate name check requests, but identified over \$230,000 for FBI services rendered but not charged to the INS. This latter amount was offset by about \$563,000 in inadequately supported FBI charges.

Non-INS Reviews

By prompting INS organizations to take the corrective actions for which they are responsible, we facilitate the implementation of actions recommended in external organizations' reviews.

<i>External Organizations' Recommendations</i>	<i>1999</i>	<i>1998</i>
Open at the beginning of the year	154	141
Added during the year	85	96
Closed during the year	52	83
Pending at the end of the year	187	154

Analysis

We analyze information in our reports to identify systemic problems, trends, and best practices.

INSpect Alerts

Based on analysis of the findings and recommendations made in *INSpect* reports, we issue *INSpect Alert* reports to INS management. *INSpect Alerts* let managers know about problems repeatedly found in *INSpect* reviews so they can identify and correct those problems in their own operations. During 1999, we issued two *INSpect Alerts* covering facilities and congressional relations. In addition, we issued six updates to our earlier *INSpect Alerts* covering human resources and development, inspections, equal employment opportunity, property management, records, and finance.

Analysis of INSpect Recommendations

We also continued to analyze the recommendations made in *INSpect* reviews. We found based on our follow-up reviews that management completed corrective actions on 91 percent of recommendations for field office compliance with existing guidelines; 91 percent of recommendations for development of local standard operating procedures; 90 percent of recommendations for staff training; and 75 percent of recommendations that required expenditure of resources to correct problems. We will continue our follow-up to ensure management accountability and to verify the consistent implementation of corrective actions.

Best Practices

We periodically issue bulletins providing information from OIA reviews and investigations that can improve procedures and processes through-

out the Service. Because the issues in these publications have Service-wide application, we direct them to INS employees at all levels.

In July 1999, we published an issue of "News You Can Use" that highlighted useful ideas noted during our follow-up on nine Special INSpect Reviews of Detention and Deportation Management at INS Districts with Service Processing Centers. District Office initiatives to enhance daily operations or implement the review recommendations ranged from development of detainee grievance procedures to planning for such emergencies as chemical explosion.

Internet and Intranet

In 1999, we incorporated in the INS Internet website under the functional heading "Quality and Integrity" information useful to the public regarding our office and its operations. Included are our prior year's Annual Report and the subsequently described materials concerning the complaint process.

Our INS Intranet page was put into service on September 1, 1999. It provides INS staff immediate access to a variety of OIA information. We are developing information concerning the operations of our Internal Investigations Branch. However, extensive materials related to the operations of our Internal Review Branch already are included. Among those materials are the INSpect review schedule, the INSpect guides, INSpect Alerts, a list of INSpect corps members, a schedule of INSpect and other review organizations' site visits, INSpect status reports, reports of special reviews and of quality assurance reviews, and News You Can Use. Our page is the largest on INS Intranet and is among those visited most often.

Investigations

We manage the processes by which allegations of misconduct on the part of Service employees are reported, resolved, and acted upon. We also conduct internal investigations and assign and oversee the conduct of inquiries by field managers. We have investigative responsibility for almost all misconduct complaints regarding INS employees. Of the 4,551 complaints we received in 1999, 4,257 (94%) were resolved by the OIA or by INS field managers under our oversight.

OIA Investigations Process

We receive employee misconduct allegations from a variety of sources. Many cases we open are based on referrals by INS field managers and the Office of the Assistant Inspector General for Investigations (OAIG-I); correspondence to Department of Justice and INS officials from complainants and their representatives, advocacy groups, and Members of Congress; and the complaint forms mentioned elsewhere in this report. We refer to the OAIG-I those more serious matters which agreements with that office call for us to refer. The OAIG-I returns the majority of such cases to us either for investigation or for information only.

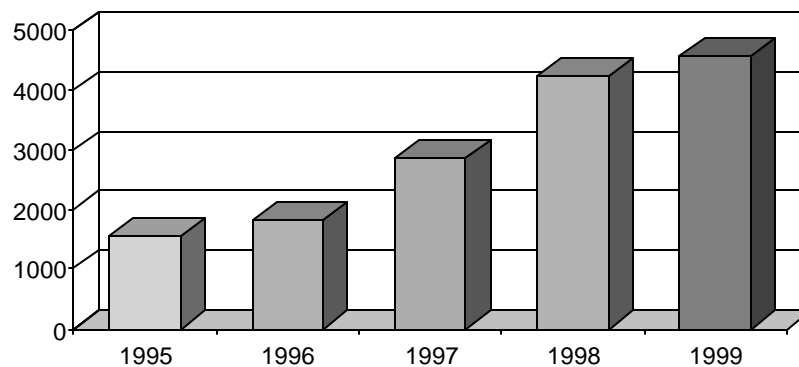
We decide whether to investigate cases ourselves or to refer them to the appropriate INS managers, either for their conduct of management inquiries or for information and action as they deem appropriate.³ In cases we refer for management inquiry, we set suspense dates for completion

of action, require reports of findings, and require records of corrective action taken based on substantiated allegations.

Some of the cases we receive must be or already are being investigated by organizations outside the INS, generally for the purpose of supporting possible criminal prosecution, e.g., the OAIG-I and the Civil Rights Division of the Department of Justice (CRT). We ensure those cases are presented to the appropriate investigative organizations and monitor their progress. The great majority ultimately are referred to us following declination of criminal prosecution. We review the investigative work done on those cases and determine whether additional investigation is warranted.⁴

*Cases
Opened
In 1999*

We opened 4,551 cases in 1999, 336 (8%) more than in 1998. The number of cases we open has increased steadily:



Some, and probably most, of the increase is attributable to the growth in Service employment, our tightening of reporting requirements for allegations of misconduct pursuant to the *Giglio* Policy, education of employees in the complaint process, and increased community outreach efforts by the Service.⁵

The dispositions of the 4,551 cases we opened were as follows:

<i>Disposition of Cases Opened by the OIA</i>	<i>Cases</i>	
	<i>1999</i>	<i>1998</i>
Action by the OIA:		
Full investigation by OIA	412	598
Management inquiry by OIA	0	35
Management inquiry by field management with OIA oversight ⁶	1,854	1,632 ⁷
Referral to field management for information	1,577	1,094
File/no action	341	145
Other (e.g., determination of disposition pending)	73	370
Subtotal	4,257	3,874

<i>Disposition of Cases Opened by the OIA</i>	<i>Cases</i>	
	<i>1999</i>	<i>1998</i>
Action by non-INS organizations		
Full investigation by the OAIG-I	279	323
Investigation by the CRT/FBI	15	18
Subtotal	294	341
Total	4,551	4,215

Our limited investigative resources make it necessary for us to refer a large percentage of our workload to field managers for management inquiry. We try not to refer to the field cases involving more serious or complex allegations or employees at or above GS-14. However, as the number of such cases and the number of all cases have increased, we have had to do so more often. In 1998, field managers resolved 1,632 complaints through management inquiries. Of those, 252 included Class 1 allegations (the most serious of four categories under OI 287.10), and 315 included Class 2 allegations. In 1999, field managers resolved 1,854 complaints through management inquiries. Of those, 254 included Class 1 allegations and 363 included Class 2 allegations.

The number of OIA investigations we opened decreased in 1999 for reasons beyond the general increase in our misconduct case workload. Those included our commitment of resources to the critically important misconduct prevention initiatives described later in this report; requirements that we conduct a number of resource-intensive, complex investigations with Attorney General, Congressional, and media interest; and our need to hire and train new staff.

*Allegations
In Cases
Opened
In 1999*

For our 1999 Annual Report, we re-categorized alleged behavior in order to better depict to agency managers the frequency with which types of behavior are reported. The allegations in the cases that we opened in 1999 fell in the following categories:⁸

<i>Allegation Category</i>	<i>1999</i>
Workplace management issues ⁹	24%
Professionalism/personal conduct ¹⁰	22%
Theft/misuse/abuse of government property	12%
Corruption re: official duties ¹¹	12%
Abuse ¹²	10%
Performance issues	8%
Detainee issues	4%
Off-duty misconduct	4%
Firearms related issues	3%
Other felonies, e.g., homicide	1%
Investigative violations	0%
Total	100%

<i>Allegation Category</i>	<i>1998</i>
Personnel prohibitions	45%
Abuse of aliens/detainees ¹³	11%
Negligence/carelessness	8%
Off-duty misconduct	5%
Information, documents, stamps, etc.	5%
Theft	5%
Criminal acts/felonies	5%
Firearms violations	4%
Vehicles and equipment	4%
Drug/narcotics violations	2%
Fraud	2%
Sexual misconduct	1%
Perjury and impeding investigations	1%
Inappropriate relationships with aliens	1%
EEO violations	1%
Total	100%

*Allegations
Related To
Public
Contacts*

Ten percent of the cases we opened in 1999 contained allegations of abuse or civil rights violations. While the vast majority of these cases do not result in criminal prosecution of an employee and while, in fact, many do not identify particular Service employees, they are among the most serious allegations reported.

Also of concern in respect to public contacts are allegations of rude or discourteous conduct towards the public. We received 289 such allegations in 1999, approximately 6% of all allegations received.

*Allegations
Related To
Workplace
Issues*

Approximately 43% of the complaints we received over the past three years have represented employees complaining about the action or inaction of other employees. These complaints include hiring, selection and promotion issues, discrimination, sexual harassment, threats, intimidation, retaliation, harassment, assault, and other behaviors solely linked to the workplace. In reality, the majority of complaints do not come from outside the agency; they originate in the workplace.

*Cases
Closed
In 1999*

When we receive reports of investigation or inquiry, be they our own or those of INS managers or of non-INS agencies, we ensure that the issues have been properly identified; that the necessary facts have been obtained; and that systemic problems are addressed. For those cases in which investigation or inquiry results appear to support findings of misconduct, we ensure those results will enable the responsible managers to make proper determinations on individual corrective action. Before closing any such case, we ensure that corrective action taken against employees based on substantiated allegations is reasonable, appropriate, and timely.

Where their identities are known, we notify non-INS complainants at two points in the process: upon receipt of the complaint and upon completion of any resulting inquiry or investigation. During 1999, we sent 843 such letters. Also, we continued our practice of advising those employees who are named as subjects in complaints when allegations concerning them are not substantiated and the cases are closed. We issued 637 such letters in 1999.

We closed a total of 3,458 cases in 1999 on the following bases:

<i>Basis for Closure</i>	<i>1999</i>	<i>1998</i>
Investigation or inquiry completed:		
One or more allegations substantiated and corrective action properly considered	685	820
No allegations substantiated	1,103	1,086
Investigation or inquiry not required (e.g., referred to management for information only, or filed/no action)	1,670	996
Total	3,458	2,902

Of the 3,458 cases we closed in 1999, 442 involved allegations of abuse of aliens/detainees, including physical abuse, illegal search or seizure, unlawful or unnecessary detention, and sexual misconduct. Such allegations are immediately referred to the CRT. Of all civil rights complaints referred to the CRT by DOJ components, fewer than ten percent result in criminal investigation and only one percent are prosecuted. The remaining 90 percent are investigated administratively following declination of prosecution.

*OIA
Investi-
gations*

During 1999, our Special Agents completed a total of 486 full investigations. One or more allegations were found substantiated in 195 (40%) of those cases with the results forwarded to field managers for determination of appropriate corrective action.

<i>OIA Investigations</i>	<i>1999</i>	<i>1998</i>
Cases opened	412	598
Cases completed	486	486
Cases pending at year end	37	111

*Individual
Corrective
Actions*

As noted above, a far larger number of substantiated cases result in disciplinary action than in criminal prosecution. In 1999, we recorded a total of 904 disciplinary and other actions taken against employees in cases of substantiated misconduct allegations. The following actions resulted from the 685 cases we closed in 1999 in which allegations against a total of 996 employees were substantiated:

<i>Individual Corrective Action</i>	<i>1999</i>	<i>1998</i>
Suspension	224	228
Reprimand	417 ¹⁴	183
Termination of employment	63	101
Counseling	59	81
Resignation prior to corrective action	17	59
Other ¹⁵	27	39
Admonishment	59	38
Criminal conviction and sentence ¹⁶	4	31
Retirement prior to corrective action	3	11
Reassignment	2	4
Demotion	6	3
Alternative dispute resolution	22	2
Restitution	1	1
None ¹⁷	92	98
Total ¹⁸	996	879

In 1999, corrective actions were taken against 21 Service employees based on substantiated civil rights allegations:

<i>Individual Corrective Action</i>	<i>1999</i>	<i>1998</i>
Admonishment/Counseling	3	6
Reprimand	2	3
Termination of employment	6	3
Suspension	1	3
Resignation prior to corrective action	0	3
Criminal conviction and sentence	0	1
Reassignment	0	1
Demotion	1	0
None ¹⁹	8	13
Total	21	33

Government-Issued Credit Cards

In 1999, we continued to investigate instances of possible misuse of government-issued credit cards and failure to pay bills on such accounts. We opened 70 investigations on totals of \$113,471.21 in misuse and \$25,995.22 in failure to pay bills.

In addition, we worked with the new BankOne Master Card program coordinator on issues involving the misuse of employees' government-issued credit cards. This includes continuous liaison with BankOne concerning possible instances of misuse or failure to pay, and input to the card use policy.

**Misconduct
Prevention**

At least as important as our resolution of individual cases of alleged employee misconduct are our extensive efforts to prevent misconduct by eliminating its causes. Our prevention efforts focus not only on employees, but also on management practices and systems.

*Integrity and
Ethical Decision-
Making Seminars*

The Director, OIA, presented the "Integrity and Ethical Decision-Making" professional development seminar to approximately 2000 employees in ten INS field offices. Two one-day sessions were held at El Paso, San Diego, Philadelphia, Detroit, El Centro/Calexico, the Vermont Service Center, Cleveland, and Marfa, and four one-day sessions were held at Los Angeles. District Offices and Border Patrol Sectors participated jointly at those locations where such offices are co-located.

This seminar focuses on values important to both law enforcement personnel and benefit providers. In the seminar's interactive format, participants discuss personal and organizational values, factors that influence decision-making, and the negative consequences of decisions. The seminar also provides tools for weighing alternatives and for judging consequences. The course content and method of instruction have been effective and widely accepted by INS employees.

Because of the overwhelming success of the seminars and to expand them beyond one-time training experiences, we undertook two initiatives in 1999:

- We worked with the INS basic training academies to identify areas in their curricula in which examples of ethics and integrity can be reinforced and applied to practical law enforcement training. Starting in basic training, a "golden thread" will be woven through each employee's INS career, continuously reinforcing the Service's core values.
- To expose more employees to the seminars' message and foster local discussions, 23 staff members from seven INS field offices were chosen to form the first group of local facilitators. We conducted a three-day training seminar on facilitation techniques, topics appropriate for discussion, and the mentoring and resource assistance that will be available to them. A universal lesson plan was developed for use in the field. Our long-range goal is to have several trained facilitators in each INS field office.

*Early
Intervention
System*

In another effort to helping protect INS employees, we led an effort in 1999 to develop an Early Intervention System (EIS). The EIS process identifies and assists employees who exhibit behavior which, if neglected or overlooked, could lead to diminished performance or necessitate disciplinary action. The EIS is a non-punitive approach to providing employees with individualized assistance before problems occur. After conducting research with law enforcement agencies around the country, we assembled a working group of field managers, headquarters specialists, and representatives of the National Immigration and Naturalization Service Council and the National Border Patrol Council.

The working group met four times in 1999, and developed a concept paper outlining the process. We presented the concept to the INS Regional Directors and, on their approval, developed a plan for an eighteen-month pilot project in six INS field offices. At year's end, implementation of the pilot was pending the Commissioner's approval.

*Systemic
Corrective
Actions*

We present to management for resolution systemic issues identified in investigations or inquiries. The following three cases in 1999 resulted in particularly significant systemic findings:

- Together with the Border Patrol, we investigated a July 1997 joint Border Patrol/Chandler, Arizona, Police Department enforcement operation. Although the evidence did not disclose deliberate misconduct on the part of any Service employee, it showed that field operational practice and guidance made the Service less able to refute allegations that officers disregarded individuals' civil rights. The inquiry also disclosed insufficient guidance on and understanding of joint operations, particularly in respect to monitoring the actions of other agencies in enforcing immigration laws, and uneven dissemination of a 1981 policy concerning area control operations. We issued our report of findings and recommendations to the Executive Associate Commissioners for Field Operations and Policy and Planning in October 1999. Their responses were pending at the end of the year.
- Together with the Border Patrol, we reviewed other agencies' investigation into the fatal shooting of a U.S. Citizen by a U.S. Marine during a joint Border Patrol/military drug interdiction operation near Redford, Texas, in May of 1997, and conducted a separate administrative inquiry.²⁰ The mission had been coordinated within the Service by Operation Alliance, which acted as the liaison between the Border Patrol and the military. Our findings addressed the review and approval of joint operations with military personnel, and communications during and coordination of ongoing joint missions.
- We investigated allegations that detainees at Service facilities were being released prior to proper medical clearances. The evidence indicated that, although a higher percentage of detainees along the Texas border were testing positive for tuberculosis than at other locations, they were being released prior to receiving a medical clearance from the U.S. Public Health Service (USPHS). The Service and the USPHS implemented new procedures whereby the USPHS will identify and coordinate treatment of detainees who test positive for tuberculosis prior to their release.

*After
Action
Reviews*

We continued the efforts reported last year to review cases in which INS employees have been prosecuted for corruption violations. We have two goals in these reviews. First, by determining how the employee was able to engage in corrupt behavior in or associated with the workplace, we seek to recommend changes in practices or procedures to lessen the opportunity for illegal behavior. Second, we search for indicators, such as

changes in the employee's behavior or performance, which might have presented an opportunity for prevention through early intervention.

The plea/sentencing process affects the timing of our interviews of the employees. We work closely prosecutors to schedule the interviews at appropriate times. We completed two after action reviews this year and had another six in progress.

- We found that, prior to killing his wife with his Service weapon in the presence of several family members, a Border Patrol Agent had exhibited a number of behavior and performance changes, including excessive tardiness, AWOL, misuse of a Government credit card, arrest for DUI, and withdrawal from fellow workers. We also found that, while a background reinvestigation had disclosed serious issues related to financial status, substance abuse, and domestic problems, the results were not presented to management; the background reinvestigation was not formally adjudicated because the employee was on a "last chance agreement". We recommended that the Office of Security immediately notify management of such issues in background reinvestigations.
- By altering and cashing checks and money orders attached to applications for INS benefits, a Management Analyst converted several hundred thousand dollars to her personal use.²¹ We found it had been obvious to co-workers that the Management Analyst was living beyond her means, and that she was able to take the monies because INS policy and procedures for accepting and processing remittances were not strictly followed. Our forthcoming report will contain recommendations regarding the control of negotiable instruments.

*Management
Inquiry
Training*

We continued our Management Inquiry Training program in 1999 and, to date, have trained over 1,000 Service managers in management inquiry procedures and report preparation. This training has received outstanding reviews Servicewide for emphasis on investigative and management skills. Regarding the latter, the training centers on communicating expectations and addressing misbehavior before it escalates into more serious misconduct.

In 1999, we presented management inquiry training at the Los Angeles, El Paso, Phoenix, New York, Detroit, San Juan, Newark, and Baltimore Districts, the El Paso, Tucson, and Detroit Border Patrol Sectors, and the Border Patrol Academies at Glynco, Georgia, and Charleston, South Carolina. We plan to present one class per month in 2000.

We also were asked to provide the United States Customs Service's Office of Internal Affairs our Management Inquiry Handbook and training program for its use as models. We met with the Office of Internal Affairs working group to explain our program and its positive results.

**Complaint
Process
Information**

In 1999, we continued our efforts to ensure that the misconduct reporting and resolution process is available to those with allegations of Service employee misconduct, and that Service employees who deal with allegations do so properly. In addition to the management inquiry training described immediately above, our efforts include the following.

*Community
Education and
Outreach*

We continued to participate in community meetings hosted by District and Sector offices. To date, we have attended 24 such meetings, at which we have outlined the formal complaint resolution process for thousands of attendees from the general public, representatives of foreign consulates, local elected officials and advocacy groups. We respond whenever Community Relations Officers in the field need to have the complaint process explained to their constituents.

We included in the INS Internet website a description of the complaint resolution process, answers to frequently asked questions about that process, and the capability to download the franked, pre-addressed form by which allegations of INS employee misconduct may be submitted.

*Employee
Education and
Outreach*

We also have engaged in efforts to educate Service employees on our role in resolving complaints and their responsibility to report possible misconduct. We have included information on the INS Intranet, and have begun to review academy curricula with an eye to better explaining to new employees the OIA role and mission. We also drafted a memorandum, which was signed by the Deputy Commissioner in September 1999, that reminds all employees of their obligation to cooperate in administrative investigations.

*Complaint
Posters
and Forms*

We distributed 2,000 additional complaint posters to INS offices, bringing the total distributed to date to over 8,500.

The original INS complaint poster was intended for display in detention and holding areas rather than to the general public. Based on employee input, we began work with the Office of Field Operations to design a form by which users can submit not only complaints, but also compliments and suggestions. By year's end, the draft form had been circulated to each INS Region for comment.

In 1999, we revised the English/Spanish Report of Complaint, Form I-847, to make it more user-friendly.

*Training Of
Office of Security
Personnel*

In April, June, November, and December 1999, we participated in training session for Office of Security adjudicators. We explained our misconduct reporting and investigation processes, and that information disclosed in background investigations should be brought to the attention of INS management through our office. This is especially important given the nexus between federal law enforcement employees' duties and off-duty conduct. In 1999, there were 360 incidents involving Service employees' off-duty behavior. Examples were domestic issues, driving while intoxicated, and fighting. In 115 of those off-duty incidents, employees were arrested.

Information and Records

As custodian of the official records of cases concerning Service employees, we respond to requests for information made under the *Giglio* Policy and the Freedom of Information Act, and by parties to litigation, Congressional offices, special interest groups, and the Office of Security.

Giglio

In 1997, we were designated as the office responsible for INS compliance with the DOJ *Giglio* Policy, which requires DOJ investigative components to provide federal prosecutors with possible impeachment information regarding Government employee witnesses in criminal prosecutions. Since that time, we have amended OI 287.10 requirements to include either immediate or after the fact reporting of all classes of misconduct allegations. In addition, we now receive from regional labor and employee relations offices copies of disciplinary and adverse action notices to ensure full compliance with the policy.

In 1999, we responded to 612 *Giglio* requests on 2,787 INS employees.

We were represented on the Department of Justice Office of Investigative Agency Policy (OIAP) *Giglio* Policy Working Group. In 1999, the Working Group established a mechanism by which U.S. Attorney's Offices inform employing agencies about the use made of information provided under the policy.²²

FOIA Requests

In 1999, we processed 128 Freedom of Information Act requests for misconduct case information and for information on the misconduct reporting and resolution process.

Name Checks

We respond when management asks if candidates for higher-level positions or nominees for significant awards are subjects in open investigations, or in investigations in which misconduct was found to have occurred. Such reviews also are done as part of security background investigations and reinvestigations. We responded to over 947 "name check" requests in 1999.

Additional Investigations Matters

OIAS Improvements

Our internal investigations staff perform a variety of additional functions related to the conduct and management of investigations and the prevention of misconduct. We also made a number of improvements to our processes during the year.

During 1999, we made two noteworthy improvements to the system by which we manage case information, the Office of Internal Audit System (OIAS). We installed a new server that was needed to address data storage and space concerns. We conducted a comprehensive review of the OIAS to identify improvements to case control and statistical data generation capabilities. We categorized the improvements by priority, and secured the requisite INS Information Technology Investment Review Board approval to make the highest priority changes. Those system enhancements were initiated in 1999.

Firearms Issues

One of our Special Agents, who serves as our liaison to the INS Shooting Incident Review Committee (SIRC), coordinates and oversees inquiries

into all shooting incidents nationwide, and presents the results to the SIRC at its meetings.²³ The SIRC reviews shooting incidents and decides whether or not to make observations or recommendations for possible individual corrective actions or changes in training or safety procedures. In 1999, 87 shooting incidents were reported to us. We presented 71 cases to the SIRC during its three meetings in 1999; 58 were pending completion of inquiry or investigation at year's end.

*Training
of OIG
Special Agents*

Based on our experience in dealing with administrative investigations and the disciplinary action and appeal processes, we were invited to provide training for Office of the Inspector General Special Agents. We did so at OIG Headquarters, the Federal Law Enforcement Training Center, and the OIG Field Offices in Tucson and New York City.

*Congressional
Testimony*

In April 1999, we drafted and coordinated the Commissioner's testimony before the Senate Caucus on International Narcotics Control, highlighting INS efforts to prevent corruption through the hiring, screening, and complaint resolution processes and other prevention initiatives.

*Deadly
Force
Policy*

In 1999, the DOJ law enforcement components assigned representatives to an Office of Investigative Agency Policies committee to address the need to revise the department's Deadly Force Policy. One of our Special Agents was on this committee. The proposed changes to the Deadly Force Policy will be transmitted to the Attorney General early in 2000.

*Duty Agent/
Monitoring Signifi-
cant Incidents*

We continued to provide 24-hour per day, 7-day per week coverage to receive and respond to significant incidents reported through the INS Command Center. Special Agents, with supervisors as backup, rotate weekly through the duty agent assignment. Our duty agents handled 1913 significant notifications in 1999.

*BCI
Integrity
Initiative*

The Attorney General and Secretary of the Treasury introduced the Border Coordination Initiative (BCI) in September 1998. The goal of BCI is to improve cooperation between INS and the U. S. Customs Service (USCS) and to "improve enforcement, and to provide for a seamless process on the border."

The BCI originally addressed port management, intelligence, investigations, technology, communications, aviation, marine, and performance measurement/budget. An integrity initiative was added early in 1999. Special Agents of the OIA and the USCS Office of Internal Affairs are co-team leaders for this initiative. During 1999, they evaluated current procedures and reviewed integrity training applicable to the missions of both agencies. The team members are to visit Ports-of-Entry and Border Patrol Stations to gain the information necessary for development of viable integrity/ethics training for the two agencies.

*Office of
Security*

We continued to focus on our working relationship with the Office of Security, following the protocol we established by which the Office of Security reports to us misconduct issues uncovered through background investigations, and we advise them of issues germane to employee security

clearances. We continued to discuss the feasibility of exchanging information between our databases.

**Other
Notable
Activities**

- During 1999, we provided the Attorney General through quarterly Management Initiatives Tracking (MIT) reports updates on INSpect and improvements to the complaint process. The INSpect portion presented INSpect activities and performance, both for the quarter and year to date, and trend analyses, best practices, and corrective actions. The complaint process portion discussed such items as participation in community meetings, Ethical Decision-Making Seminars, and Management Inquiry Training.
- The Special Studies Unit and the Immigration Services Division were recognized at the 1999 Commissioner's Conference for efforts in establishing the Service's quality assurance (QA) program. The program effort resulted in measurable, sustained improvements in all aspects of the naturalization program, and formed a working model for QA within other INS programs and operations.
- The Assistant Director, Internal Investigations, continued to serve as a member of the International Association of Chiefs of Police (IACP) National Committee on Civil Rights. He also serves as a member of the IACP International Policy and Planning Committee.

Notes

1. KPMG Peat Marwick did not review the naturalizations of applicants with criminal histories and deportation actions that were processed during this period.
2. A review is considered "open" until the review organization notifies us that all recommendations in the report are closed.
3. Both investigations and management inquiries represent reviews of allegations of misconduct. Investigations are more formal and usually are conducted by trained investigators. Management inquiries are less formal and usually are conducted by management officials or their designees.

4. Because the criminal and administrative processes differ, particularly in respect to offenses on which action can be based and the degree of proof required, criminal investigative results often need to be supplemented before they can be used in the disciplinary/adverse action context. Quite often, statements obtained in a criminal investigation that are not in the form of sworn testimony are of limited value in disciplinary and adverse action cases. Also, many criminal investigations do not include an interview of the subject prior to a declination for prosecution. In substantiated administrative cases, disciplinary action cannot be initiated without a subject interview. In such cases, we work with the investigating agency and request that certain aspects of the case be supplemented, or agree with the agency that we will supplement the case.
5. In December 1996, the Attorney General issued the DOJ-wide *Giglio* Policy, which requires DOJ investigative components to provide federal prosecutors with possible impeachment information regarding Government employee witnesses in criminal prosecutions. We were designated as the office responsible for INS compliance with the *Giglio* policy.
6. The large majority of cases under the heading "management inquiry by field management with OIA oversight" were tasked to the field following their receipt by our office. The remainder, involving lower-level misconduct allegations, were referred to us after corrective action had been initiated in accordance with OI 287.10.
7. This figure differs from the 1,135 case figure included in our 1998 Annual Report. We had not processed into our system by the end of that year a number of lower-level misconduct allegations that were referred to us in 1998 after corrective action had been initiated in accordance with OI 287.10.
8. The allegation category figures are shown as percentages because a significant number of cases entail multiple allegations.
9. Our allegation category "Workplace Management Issues," includes complaints of threatening, harassing, intimidating, or retaliating against employees, allegations related to hiring practices, supervisor/subordinate communications and relationships, complaints of discriminatory treatment, and failure to properly perform duties (e.g., customer service or satisfaction issues related to a particular office as opposed to individual employees).
10. Our allegation category "Professionalism and Personal Conduct" includes complaints related to individual employee behavior in the workplace, e.g., unbecoming conduct, rude or discourteous treatment of the public, insubordination, use of intoxicants, fighting, verbal abuse of co-workers, cheating, and gambling.
11. Our allegation category "Corruption Related to Official Duties," includes allegations of criminal behavior such as bribery, sale of documents, alien or drug smuggling, aiding or abetting escape, or harboring or employing illegal aliens.
12. Our allegation category "Abuse" includes allegations of civil rights violations, such as physical abuse of detainees, excessive or unnecessary use of force, and unlawful search and seizure.
13. The allegation category "Abuse of aliens/detainees" used in our 1998 and earlier Annual Reports included allegations of abuse and other civil rights violations and of discourtesy to the public.

14. The majority of reprimands were based on incidents in which employees were found to have been careless or negligent in the use of Government property, e.g., motor vehicles. Such matters are reported to the OIA after action is taken.
15. The "Other" category of individual corrective actions includes such actions as not extending an employee's temporary appointment, referral to the Employee Assistance Program, and resolution through background investigation and clearance channels.
16. This figure includes local judicial actions for off duty offenses such as driving while intoxicated, domestic violence, and failure to pay child support. Over the past three years, an average of seventeen employees were prosecuted for corruption related to their official duties. NOTE: In our 1998 report, we stated that six employees were prosecuted for corruption related to their official duties in the latest three years. Because we had not been notified of some prosecutions, our records were incomplete and that figure was incorrect.
17. The "None" category of individual corrective actions includes cases in which, while investigation or inquiry supported a finding of misconduct in our view, individual corrective action could not be taken. Included, for example, are cases in which: (1) labor and employee relations or legal staff advised managers that disciplinary action should not be pursued because such action would not be sustained, either because the evidence was insufficient or too much time had elapsed since the incident at issue; (2) the managers responsible made reasonable determinations, contrary to those of the investigative agencies, that the evidence did not support corrective action; and (3) no INS employee subject could be identified.
18. The total exceeds the number of cases closed because some cases involved multiple subjects.
19. (See the above note regarding the "None" category of individual corrective actions.)
20. The Federal Bureau of Investigation, the U.S. Marine Corps, and the Texas Rangers investigated the incident. The matter initially was investigated criminally, but no indictments against individuals resulted.
21. The Management Analyst paid \$102,115 in restitution and was sentenced to six months home confinement and three years probation.
22. This is extremely important in affording due process to any employee who is not used as a witness in a case based on a decision by the U.S. Attorney's office or the Court.
23. The Director, OIA, serves as a member of the SIRC, and the Assistant Director, Internal Investigations, as the Director's alternate.